

Christopher Gartman  
HUGHES HUBBARD & REED LLP  
One Battery Park Plaza  
New York, New York 10004  
Telephone: (212) 837-6000  
Facsimile: (212) 422-4726

*Counsel for Matson Navigation Company, Inc.*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

*In re*

SEARS HOLDINGS CORPORATION, *et al.*,<sup>1</sup>

Reorganized Debtors.

Chapter 11

Case No. 18-23538 (RDD)

(Jointly Administered)

**OBJECTION OF MATSON NAVIGATION COMPANY, INC. TO  
NOTICE OF CURE COSTS AND POTENTIAL ASSUMPTION AND ASSIGNMENT OF  
EXECUTORY CONTRACTS AND UNEXPIRED LEASES  
IN CONNECTION WITH GLOBAL SALE TRANSACTION**

<sup>1</sup>. The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are as follows: Sears Holdings Corporation (0798); Kmart Holding Corporation (3116); Kmart Operations LLC (6546); Sears Operations LLC (4331); Sears, Roebuck and Co. (0680); ServiceLive Inc. (6774); A&E Factory Service, LLC (6695); A&E Home Delivery, LLC (0205); A&E Lawn & Garden, LLC (5028); A&E Signature Service, LLC (0204); FBA Holdings Inc. (6537); InnovelSolutions, Inc. (7180); Kmart Corporation (9500); MaxServ, Inc. (7626); Private Brands, Ltd. (4022); Sears Development Co. (6028); Sears Holdings Management Corporation (2148); Sears Home & Business Franchises, Inc. (6742); Sears Home Improvement Products, Inc. (8591); Sears Insurance Services, L.L.C. (7182); Sears Procurement Services, Inc. (2859); Sears Protection Company (1250); Sears Protection Company (PR) Inc. (4861); Sears Roebuck Acceptance Corp. (0535); Sears, Roebuck de Puerto Rico, Inc. (3626); SYW Relay LLC (1870); Wally Labs LLC (None); Big Beaver of Florida Development, LLC (None); California Builder Appliances, Inc. (6327); Florida Builder Appliances, Inc. (9133); KBL Holding Inc. (1295); KLC, Inc. (0839); Kmart of Michigan, Inc. (1696); Kmart of Washington LLC (8898); Kmart Stores of Illinois LLC (8897); Kmart Stores of Texas LLC (8915); MyGofer LLC (5531); Sears Brands Business Unit Corporation (4658); Sears Holdings Publishing Company, LLC. (5554); Sears Protection Company (Florida), L.L.C. (4239); SHC Desert Springs, LLC (None); SOE, Inc. (9616); StarWest, LLC (5379); STI Merchandising, Inc. (0188); Troy Coolidge No. 13, LLC (None); BlueLight.com, Inc. (7034); Sears Brands, L.L.C. (4664); Sears Buying Services, Inc. (6533); Kmart.com LLC (9022); and Sears Brands Management Corporation (5365). The location of the Debtors' corporate headquarters is 3333 Beverly Road, Hoffman Estates, Illinois 60179.

Matson Navigation Company, Inc. (“Matson”), by its undersigned attorneys, hereby objects (this “Objection”) to the Debtors’ *Notice of Cure Costs and Potential Assumption and Assignment of Executory Contracts and Unexpired Leases in Connection with the Global Sale Transaction* (Docket No. 1731) (the “Cure Notice”) relating to (i) that certain Service Contract No. C3077 dated as of May 1, 2013 (together with any amendments thereto, the “Service Contract”), and (ii) an agreement relating to postpetition services dated as of November 15, 2018 (the “Postpetition Agreement”, and together with the Service Contract, the “Matson Contracts”).

### **OBJECTION**

1. On January 18, 2019, the Debtors filed the Cure Notice, setting forth certain executory contracts and unexpired leases which may be subject to potential assumption and assignment in connection with the Debtors’ proposed Global Asset Sale Transaction (as defined in the Cure Notice) (the “Sale”).
2. The Cure Notice identifies two agreements between certain of the Debtors and Matson as contracts which the Debtors may seek to assume and assign in connection with the Sale: the Service Contract and the Postpetition Agreement. (*See* Cure Notice at 203 (Contract Nos. 4684, 4685).) The Cure Notice then proposes that the cure amount for each of the Matson Contracts is \$0 (the “Proposed Cure Amounts”). *Id.* Matson hereby objects to the Proposed Cure Amounts because they are inaccurate.
3. In order to assume and assign the Matson Contracts, the Debtors are required to cure (or provide adequate assurance that the Debtors will promptly cure) existing defaults thereunder. Section 365 of the Bankruptcy Code provides, in relevant part, that “[i]f there has been a default in the executory contract or unexpired lease of the debtor, the trustee may not

assume such contract or lease unless, at the time of assumption of such contract or lease, the trustee . . . cures, or provides adequate assurance that the trustee will promptly cure, such default . . .” 11 U.S.C. § 365(b)(1)(A).

4. Matson objects to the Proposed Cure Amounts (\$0) because the Debtors presently owe \$57,730.01 to Matson under the Matson Contracts with respect to postpetition services, and as a result of future orders, the Debtors may also owe Matson additional amounts prior to the effective date of any assumption of the Matson Contracts (collectively, the “Required Cure Amount”). A summary of the amounts presently owed to Matson under the Matson Contracts for postpetition services is attached hereto as Exhibit A.

5. In addition, pursuant to the Postpetition Agreement, the Debtors agreed that Matson would have an allowed general unsecured claim in the amount of \$103,310.66 against the Debtors (the “Surviving Prepetition Claim”), which Surviving Prepetition Claim is to be allowed and otherwise satisfied in accordance with a confirmed plan of reorganization or liquidation for the Debtors. While Matson agrees that no cure payment is owed on account of the Surviving Prepetition Claim, it objects to the Cure Notice to the extent the Debtors seek in connection with the Cure Notice or the Sale to impair the allowance of or Matson’s right to receive a distribution as a general unsecured claim with respect to the Surviving Prepetition Claim.

#### **RESERVATION OF RIGHTS**

Matson reserves the right to supplement this Objection and to submit further objections with respect to the Sale, to cure amounts proposed by the Debtors for any contracts to which Matson is a party that are sought to be assumed by the Debtors, or to the assumption, assumption and assignment, or rejection of any such contracts.

**CONCLUSION**

WHEREFORE, Matson respectfully requests that (i) to the extent the Debtors seek to assume or to assume and assign the Matson Contracts, (A) the cure costs with respect thereto be fixed in the amount of the Required Cure Amount and (B) Matson's Surviving Prepetition Claim and Matson's right to receive distributions on account of it as a general unsecured claim under any plan of reorganization or liquidation of the Debtors be preserved in connection with the Sale or any assumption or assumption and assignment of the Matson Contracts; and (ii) the Court grant Matson such other and further relief as it may deem just and proper.

Dated: New York, New York  
January 25, 2019

HUGHES HUBBARD & REED LLP

*/s/ Christopher Gartman* \_\_\_\_\_

Christopher Gartman  
One Battery Park Plaza  
New York, New York 10004  
Telephone: (212) 837-6000  
Facsimile: (212) 422-4726  
chris.gartman@hugheshubbard.com

*Counsel for Matson Navigation Company, Inc.*

**EXHIBIT A**

**Services Relating to Sears Roebuck & Company:**

Invoice	Invoice Date	Balance
31896093	12/26/2018	\$5,699.54
48080401	12/26/2018	\$400.13
34348621	1/3/2019	\$1,525.79
88110211	1/10/2019	\$1,874.20
8811021	1/10/2019	\$635.80
3779876	1/10/2019	\$4,925.07
91953004	1/17/2019	\$236.27
		<b>\$15,296.80</b>

**Services Relating to Kmart:**

Invoice	Invoice Date	Balance
73280641	12/24/2018	\$(392.06)
7328064	12/24/2018	\$ 392.06
4808040	12/26/2018	\$2,109.87
3838557	12/26/2018	\$ 5,020.00
3189609	12/26/2018	\$6,850.46
4386489	1/3/2019	\$1,516.86
43864892	1/3/2019	\$ 993.14
3595098	1/3/2019	\$2,510.00
34348622	1/3/2019	\$316.94
3434862	1/3/2019	\$3,177.28
3676254	1/10/2019	\$2,510.00
37798761	1/10/2019	\$2,604.93
1779893	1/16/2019	\$2,510.00
2047981	1/16/2019	\$10,040.00
9195300	1/17/2019	\$2,273.73
		<b>\$42,433.21</b>